IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

Crl.MC.No. 80 of 2007()

ST.149/2006 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM
CRIME NO.31 OF 2006 OF POOJAPPURA POLICE STATION, THIRUVANANTHAPURAM

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PETITIONERS: ACCUSED (A2 TO A4)

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1. ANILKUMAR AGED 40, S/O.VELAYUDHAN PILLA,
PALANTHALA VEETTIL, ANJUTHENGUMOODU,
KATTAKADA, KULANGARA DESOM,
KULATHUMMAL VILLAGE.

2. RAJAN AGED 35, S/O.RAVEENDRAN NAIR,
ARCHANA BHAVAN, NEARBY KATTAKADA POST OFFICE,
KULANGARA DESOM, KULATHUMMAL VILLAGE.

3. MANIKANTAN AGED 42, S/O.VELAYUDHAN NAIR,
THOTTAMBARA CHANDRA BHAVAN, KATTAKADA,
KULANGARA DESOM, KULATHUMMAL VILLAGE.

BY ADV. SRI.R.T.PRADEEP
SRI.V.VIJULAL

RESPONDENT:

THE STATE OF KERALA REPRESENTED BY THE DIRECTOR
GENERAL OF PROSECUTION, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.80 of 2007

Dated this the 10th day of January, 2007

ORDER

The petitioners are accused 2 to 4 in a prosecution under Sections 184, 185, 188 3(1) read with 181 of the Motor Vehicles Act. The crux of the allegations against the petitioner is that they along with the 1st accused was found travelling in a Maruti car, which was being driven by the 1st accused in a dangerous manner under the influence of alcohol. The police party wanted the driver to stop the vehicle. The driver did not. The other occupants of the car, ie. the petitioners herein allegedly persuaded the 1st accused to speed away without stopping the car. The car was ultimately intercepted and stopped. The 1st accused was allegedly found to be not having any driving licence. The test with a breath analyser allegedly revealed that the 1st accused is guilty of the offence punishable under Section 185 of the M.V Act.

2. The petitioners (accused 2 to 4) have come to this Court with this petition with a prayer to quash the proceedings against them. They cannot be held guilty of abetment of the offence punishable under Sections 184 & 185 of the M.V Act, urges the counsel. He further points out that in the case diary statements recorded, the allegation that the petitioners had prompted the 1st accused to speed away without stopping is not specifically raised.

Admittedly such allegations are seen raised specifically in the F.I statement/report filed as also in the mahazar prepared.

3. There cannot be a contention that the offence under Sections 184 & 185 of the M.V Act cannot be abetted. Such a contention would go against the very grain of Section 188 of the M.V Act, which prescribes the punishment for abatement of the offence punishable under Sections 184 & 185 of the M.V Act. That contention hence cannot be accepted. The alleged omission to specifically refer to the conduct of the petitioners' in prompting/abetting the 1st accused to speed away in the case diary statements cannot now be held to be crucial or vital as to justify the invocation of the powers under Section 482 Cr.P.C to quash the proceedings. Of course, if there be any such omission, the petitioners shall be entitled to take advantage of that while cross examining the witnesses concerned.

4. At any rate, I am satisfied that there are no circumstances justifying the invocation of the extraordinary inherent jurisdiction available to this Court under Section 482 Cr.P.C to prematurely terminate the proceedings against the petitioners.

5. In the result, this Crl.M.C is dismissed. Needless to say, the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioners to raise all relevant and appropriate contentions before the learned Magistrate in the course of the trial.

(R.BASANT, JUDGE)

rtr/-